

Nuclear Regulatory Commission

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and access to the place of applicant, licensee, or certificate holder activities. These obligations are similar to the obligations accepted by other countries.

[73 FR 78607, Dec. 23, 2008]

§ 75.2 Scope.

(a) All persons licensed by the Nuclear Regulatory Commission or an Agreement State, or who hold a certificate of compliance, or construction permit or authorization issued by the Nuclear Regulatory Commission are subject to the requirements of this part. These requirements also apply to all persons who have filed an application with the NRC to construct a facility or to receive source or special nuclear material. Locations determined by the U.S. Government to be associated with activities or information of direct national security significance to the United States are excluded from these requirements. Specifically, these requirements pertain to the following locations and activities of licensees and certificate holders:

(1) A facility, as defined in § 75.4, and the site of the facility;

(2) A location performing nuclear fuel cycle-related research and development, as defined in § 75.4;

(3) A location manufacturing, assembling, or constructing nuclear fuel cycle-related equipment or materials as defined in § 75.4;

(4) A location of a uranium or thorium mine or concentration plant (e.g., in-situ leach mines and activities involving ore processing);

(5) A location importing or possessing "impure" source material [*i.e.*, source material not in the form of purified chemical products (e.g., UF₆, U metal, UO₂)];

(6) A location possessing source or special nuclear material on which IAEA safeguards have been exempted or terminated;

(7) A location receiving imports of material or equipment that is subject to export controls; and

(8) The activity of exporting source materials for non-nuclear purposes or exporting of non-nuclear material or equipment that is subject to export controls.

(b) Facilities referred to in § 75.2(a)(1) are also subject to the reporting re-

quirements of § 75.6(b) and (c), IAEA inspections in § 75.8, Facility information in § 75.10, and the Material Accounting and Control requirements in §§ 75.21 through 75.45.

(c) Locations referred to in § 75.2(a)(2) through 75.2(a)(7) are also subject to the reporting requirements of § 75.6(b) and (d), and IAEA inspections in § 75.8, and location information in § 75.11.

[73 FR 78607, Dec. 23, 2008]

§ 75.3 Exemptions.

(a) The Commission may, upon application of any interested person or upon its own initiative, grant exemptions from the requirements of this Part that it determines are authorized by law and consistent with the Safeguards Agreement or the Additional Protocol, are not inimical to the common defense and security, and are otherwise in the public interest.

(b) Without limiting the generality of paragraph (a) of this section, the U.S. Government may request from the IAEA an exemption with respect to nuclear material of the following types:

(1) Source and special nuclear material in gram quantities or less as a sensing component in instruments;

(2) Nuclear material used in non-nuclear activities; and

(3) Plutonium with an isotopic concentration of plutonium-238 exceeding 80 percent.

[73 FR 78607, Dec. 23, 2008]

§ 75.4 Definitions.

As used in this part:

Unless otherwise defined in this section, the terms defined in §§ 40.4, 50.2, and 70.4 of this chapter have the same meaning when used in this part.

Additional Protocol means the Protocol Additional to the Agreement Between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America, concluded between the United States and the IAEA in Vienna, Austria, on June 12, 1998, that follows the provisions of INFCIRC/540.

Agreement, except as used in the term *Agreement State*, means the Agreement between the United States and the International Atomic Energy Agency

for the Application of Safeguards in the United States. Unless otherwise specified, the term refers both to the principal text of the Agreement, consisting of 90 articles, and to the Protocol thereto.

Agreement State as designated in part 150 of this chapter means any State with which the Commission has entered into an effective agreement under subsection 274b. of the Act.

Batch means a portion of nuclear material handled as a unit for accounting purposes at a key measurement point and for which the composition and quantity are defined by a single set of specifications or measurements. The nuclear material may be in bulk form or contained in a number of separate items.

Complementary access means access provided to IAEA inspectors in accordance with the provisions of the Additional Protocol.

Containment (with respect to IAEA safeguards) means containers, devices, or structures that are used to prevent undetected access to or movement of nuclear material.

Effective kilogram means a unit used in safeguarding nuclear material. The quantity is:

(1) For special nuclear material: The amount specified in § 70.4 of this chapter.

(2) For source material: The amount specified in § 40.4 of this chapter.

Eligible Facilities List means the list of facilities that are eligible for IAEA safeguards inspections under the US/IAEA Safeguards Agreement, which the Secretary of State or his designee last submitted for Congressional review and which was not disapproved. A copy of this list is available for inspection at the NRC Web site, <http://www.nrc.gov>, and/or at the NRC Public Document Room. In accordance with the provisions of the Safeguards Agreement, facilities of direct national security significance are excluded from the Eligible Facilities List.

Environmental sampling (with respect to IAEA Safeguards) means the collection of environmental samples (e.g., air, water, vegetation, soil, or smears from surfaces) at a location specified by the IAEA for the purpose of assisting the IAEA to draw a conclusion

about the absence of undeclared nuclear material or nuclear activities.

Facility means:

(1) A production facility or utilization facility as defined in § 50.2 of this chapter;

(2) A plant that converts nuclear material from one chemical form to another (e.g., Uranium hexafluoride plant);

(3) A fuel fabrication plant;

(4) An enrichment plant or isotope separation plant for the separation of isotopes of uranium or to increase the abundance of ²³⁵U.

(5) An installation designed to store nuclear material, such as an independent spent fuel storage installation (ISFSI) or a monitored retrievable storage installation (MRS) as defined in § 72.3 of this chapter; or

(6) Any plant or location where the possession of more than 1 effective kilogram of nuclear material is licensed pursuant to Parts 40, 50, 60, 61, 63, 70, 72, 76, or 150 of this chapter or an Agreement State license.

Facility attachment means a document negotiated between the U.S. and the IAEA that establishes safeguards commitments for a particular facility.

IAEA means the International Atomic Energy Agency or its duly authorized representatives.

IAEA material balance area means an area established for IAEA accounting purposes, such that:

(1) The quantity of nuclear material in each transfer into or out of each material balance area can be determined; and

(2) The physical inventory of nuclear material in each material balance area can be determined when necessary in accordance with specified procedures.

Initial protocol means the protocol to the *Agreement Between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America* that was concluded with the IAEA and provides the IAEA the right to select a facility for material accounting reporting only without the right to conduct inspections.

Inventory change means an increase or decrease in the quantity of source or special nuclear material in an IAEA material balance area.

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Key measurement point means a location where nuclear material appears in such a form that it may be measured to determine material flow or inventory. Key measurement points thus include, but are not limited to, the inputs and outputs (including measured discards) and storages in material balance areas.

Location means any geographical point or area identified by the United States in its declarations, or by the IAEA resulting from a question, under the Additional Protocol.

Managed access means procedures to protect sensitive or classified information or, to meet safety or physical protection requirements, while allowing the IAEA to accomplish the purpose of a complementary access request.

Nuclear fuel cycle-related manufacturing and construction means those activities related to the manufacture or construction of any of the following: Components for separating the isotopes of uranium or enriching uranium in the isotope 235, zirconium tubes, heavy water or deuterium, nuclear-grade graphite, irradiated fuel casks and canisters, reactor control rods, criticality safe tanks and vessels, irradiated fuel element chopping machines, and hot cells.

Nuclear fuel cycle-related research and development means those activities specifically related to any process or system development aspect of any of the following: Conversion of nuclear material; enrichment of nuclear material; nuclear fuel fabrication; reactors; critical facilities; reprocessing of nuclear fuel; and processing of intermediate or high-level waste containing plutonium, high-enriched uranium, or uranium-233.

Nuclear material means any source material or any special nuclear material.

Safeguards Agreement means the Agreement Between the United States and the IAEA for the Application of Safeguards in the United States, and all protocols and subsidiary arrangements to the agreement.

Subsidiary Arrangement means a document, negotiated between the U.S. and the IAEA, that formally defines the technical and administrative procedures to implement the measures contained in the Safeguards Agreement.

Surveillance (with respect to IAEA Safeguards) means instrumental or human observation aimed at detecting the movement of nuclear material.

Transitional Facility Attachment means that portion of the “Transitional Subsidiary Arrangements to the Protocol to the Safeguards Agreement” that pertains to a particular facility that has been identified under the Initial Protocol.

[45 FR 50711, July 13, 1980, as amended at 46 FR 58283, Dec. 1, 1981; 53 FR 31683, Aug. 19, 1988; 57 FR 18393, Apr. 30, 1992; 57 FR 33432, July 29, 1992; 63 FR 26963, May 15, 1998; 66 FR 55816, Nov. 2, 2001; 73 FR 78608, Dec. 23, 2008]

§ 75.5 Interpretations.

Except as authorized specifically by the Commission in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission.

§ 75.6 Facility and location reporting.

(a) Except where otherwise specified, all communications concerning the regulations in this Part shall be addressed to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001. Written communications may be delivered in person to the Nuclear Regulatory Commission at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738 between 7:30 a.m. and 4:15 p.m. eastern time. If a submittal deadline falls on a Saturday, Sunday, or a Federal holiday, the next Federal working day becomes the official due date.

(b) Each applicant, licensee, or certificate holder who has been given notice by the Commission in writing that its facility or location is required to report under the Safeguards Agreement shall make its initial and subsequent reports, including attachments, in an appropriate format defined in the instructions.